

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PHILLIP BURTON HAUSKEN,

Plaintiff,

v.

D, LEWIS, et al.,

Defendants.

CASE NO. C12-5882 BHS-JRC

ORDER RE-REFERRING CASE
TO MAGISTRATE JUDGE

This matter comes before the Court on Plaintiff Burton Hausken's ("Hausken") motion to amend his complaint. Dkt. 29. On October 16, 2012, Hausken, an inmate housed in the Special Offender Unit at Monroe Correctional Complex, filed a complaint against three Defendants alleging violations of his constitutional rights connected to the monthly taking of \$0.50 from his prison trust account and the forwarding of that money to the inmate betterment fund to pay for cable television and other privileges that he does not use. *See* Dkt. 5.

On February 2, 2013, the Honorable J. Richard Creatura, United States Magistrate Judge, issued a Report and Recommendation ("R&R"), granting in part and denying in part Defendants' previously filed motion to dismiss Hausken's complaint. Dkt. 21. On

1 February 15, 2013, Plaintiff filed objections to the R&R. Dkt. 22. On February 23, 2013,
2 the Defendants filed objections to the R&R. Dkt. 23.

3 On March 29, 2013, Hausken filed a notice of appeal with the Ninth Circuit,
4 appealing the R&R. Dkt. 24. On April 25, 2013, the Ninth Circuit issued a mandate
5 dismissing the appeal for lack of jurisdiction, as magistrate judges' decisions are non-
6 appealable. Dkt. 28 (*citing Serine v. Peterson*, 989 F.2d 371, 372-73 (9th Cir. 1993)).
7 The Court renoted Hausken's and the Defendants' objections to the R&R for
8 consideration on April 26, 2013. Dkt. 29.

9 On May 17, 2013, Hausken filed a somewhat confusing pleading which indicates
10 that he is "[a]mending [his] complaint pursuant to CR 41(b)(3)," apparently naming new
11 defendants. Dkt. 29 at 1 and 3. Although Hausken filed an amended complaint without
12 filing the requisite motion to amend (Fed. R. Civ. P. 15(a)(2)) and has attempted to cite a
13 criminal rule (CrR 41), which involves magistrate judges' ability to issue warrants, as the
14 basis for his amendments, because Hausken is acting *pro se*, the Court liberally construes
15 his pleading as a motion to amend his complaint.

16 Therefore, it is hereby **ORDERED** that this case is **re-referred** to Magistrate
17 Judge Creatura for consideration of Hausken's motion to amend (Dkt. 29).

18 Dated this 22nd day of May, 2013.

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21 BENJAMIN H. SETTLE
22 United States District Judge